Montag & Nadalin LLP
P.O. Box 124801
San Diego, CA 92112
(619) 234-8875

Robert G. Nadalin, Esq.
Cal. State Bar No. 222489
Attorney for Mr. Seever Mustafa Sulaiman

FILED
07 DEC -7 PM 2:57
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: [signature] DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Seever Mustafa Sulaiman,

Plaintiff,

v.

Michael Chertoff, Secretary,
Department of Homeland Security,

Emilio T. Gonzalez, Director,
Citizenship and Immigration Services,

Gerald Heinauer, Director
Nebraska Service Center,
Citizenship and Immigration Services

Paul M. Pierre, District Director,
San Diego District, Citizenship and
Immigration Services,

Michael B. Mukasey,
Attorney General of the United States,

Robert S. Mueller, III,
Director, Federal Bureau of Investigation,

Defendants.

Civil No.
'07 CV 2293 BEN (CAB)

Agency No. A76 200 418

COMPLAINT REQUESTING REVIEW OF APPLICATION FOR NATURALIZATION PURSUANT TO 8 USC § 1447(b)

Plaintiff, by his attorney, complaining of Defendants, alleges as follows:

1. Plaintiff, Seever Mustafa Sulaiman, is an individual and applicant for naturalization who currently resides in the city of San Diego, which is within the jurisdiction of this

Court. Plaintiff's claim to relief arises under 8 U.S.C. § 1421 and 8 U.S.C. § 1447(b).

2. Defendent Michael Chertoff is the Secretary of Homeland Security (DHS), Emilio T. Gonzalez is the Director of United States Citizenship and Immigration Services (USCIS), Gerald Heinauer is the Director of the Nebraska Service Center of USCIS, Paul M. Pierre is the District Director of the San Diego District of USCIS, Michael B. Mukasey is the Attorney General of the United States, and Robert S. Mueller, III, is the Director of the Federal Bureau of Investigation. All defendants are sued in their professional capacities.

3. The Court has jurisdiction of this action pursuant to 8 U.S.C. § 1421, 8 U.S.C. § 1447(b), 5 U.S.C. § 701 et seq., and 28 U.S.C. § 2201 et seq., and relief is requested pursuant to these statutes.

4. On February 6, 2003, Plaintiff applied for naturalization under 8 U.S.C. § 1421 with the USCIS Nebraska Service Center in Lincoln, Nebraska based on his continuous residence in the city of St. Louis, Missouri prior to that time and continuing through the time of the in-person interview at that office.

5. In the year 2003 and prior to his individual interview, Plaintiff was fingerprinted at a USCIS Application Support Center. He has been fingerprinted multiple times. Plaintiff was most recently fingerprinted at the application support center in Oxnard, California on April 3, 2007, based on his residence within the jurisdiction of that application support center at that time.

6. Plaintiff was interviewed by USCIS at the Saint Louis Missouri District Office on July 3, 2003, which is more than 4 years prior to the date of the filing of this complaint.

7. In response to numerous inquiries over the course of the most recent 4 years, USCIS

confirmed that it has not adjudicated the case of Mr. Sulaiman and has asserted that it is continuing to wait for the FBI to complete the name check security procedure.

8. Defendants have a duty to adjudicate this application within the 120-day period following the date of the examination that occurred in 2003. They have failed to complete this duty for a period of more than 4 years. Id.

9. Plaintiff has exhausted his administrative remedies.

10. Defendants' refusal to act in this case is, as a matter of law, arbitrary and not in accordance with the law.

11. Defendants are in violation of the Administrative Procedures Act, 5 U.S.C. § 701 et. seq, are unlawfully withholding or unreasonably delaying action on Plaintiffs' application and have failed to carry out the adjudicative functions delegated to them by law with regard to Plaintiff's case.

WHEREFORE, Plaintiff prays:

A. That the Court determine this matter or alternatively remand the matter with specific appropriate instructions ordering the Service to have their agents process this case to a conclusion.

B. For reasonable attorney's fees, and

C. For such other and further relief as to this court may deem proper.

Dated: December 7, 2007

Robert G. Nadalin
Attorney for Seever Mustafa Sulaiman

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Seever Mustafa Sulaiman

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Robert G. Nadalin, Montag & Nadalin LLP, Tel 619-234-8875
P.O. Box 124801, San Diego, CA 92112

DEFENDANTS

Michael Chertoff, Secretary, Department of Homeland Security, Emilio T. Gonzalez, Director, Citizenship and Immigration Services, Gerald Heinauer, Director, Nebraska Service Center, Citizenship and Immigration Services, Paul M. Pierre, District Director, San Diego District, Citizenship and Immigration Services, Michael B. Mukasey, Attorney General of the United States, Robert S. Mueller, III, Director, Federal Bureau of Investigation

FILED
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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

Attorneys (If Known)

'07 CV 2293 BEN (CAB)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing **(Do not cite jurisdictional statutes unless diversity)**:
8 USC § 1421, 8 USC § 1447(b)

Brief description of cause:
Unreasonable delay in adjudication of naturalization application

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ______ DOCKET NUMBER ______

DATE 12/07/2007

SIGNATURE OF ATTORNEY OF RECORD [signature]

FOR OFFICE USE ONLY

RECEIPT # 145273 AMOUNT 350.– APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

12/7/07 [initials]

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

145273 - SR
* * C O P Y * *
December 07, 2007
15:08:51

Civ Fil Non-Pris
USAO #.: 07CV2293 CIV. FIL.
Judge..: ROGER T BENITEZ
Amount.: $350.00 CK
Check#.: PC#1022

Total-> $350.00

FROM: SULAIMAN V. CHERTOFF, ET AL
CIVIL FILING